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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN DYNASTY MINERALS
LTD. and PEBBLE LIMITED
PARTNERSHIP,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY and UNITED
STATES ARMY CORPS OF ENGINEERS,

Defendants.

No. 3:24-00059-SLG

MOTION FOR RECONSIDERATION

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NORTHERN DYNASTY MINERALS LTD V. EPA
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Plaintiffs, Northern Dynasty Minerals Ltd. and Pebble Limited Partnership (“Plaintiffs”), respectfully request that the Court reconsider its ruling denying as moot the Joint Motion for Revised Scheduling Order (“Corps Scheduling Motion”), ECF No. 119, and Motion for Expedited Consideration, ECF No. 120, for the following reasons:

1. There are two administrative records in this case: one for the United States Environmental Protection Agency (“EPA”) and another for the United States Army Corps of Engineers (“Corps”).

2. On November 5, 2024, Plaintiffs and the Corps filed the Corps Scheduling Motion, seeking an extension of time to brief a motion to supplement the Corps' administrative record submitted to the Court. ECF No. 119. The same day, Plaintiffs filed a motion for expedited consideration of the Corps Scheduling Motion. ECF No. 120. As stated in the Corps Scheduling Motion, Plaintiffs' motion to supplement the Corps' administrative record is currently due on November 8, 2024, and the parties anticipate that it will take longer to brief a motion to supplement the Corps' administrative record. ECF No. 119 at 3.

3. On November 6, 2024, Plaintiffs and the EPA moved to stay potential briefing related to the EPA administrative record. ECF No. 121. The Parties requested this stay, in part, to allow the Parties more time to discuss potential EPA record supplementation in this case. The Parties also requested the stay to coordinate briefing of potential motions to supplement the EPA administrative record with the parties in the two related cases that also challenge the EPA's January 2023 Final Determination. Importantly, there is only one administrative record—the EPA administrative record—in these two related cases, and there

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is no need to coordinate the Corps administrative record briefing with the parties in those related cases.

4. On November 8, 2024, the Court granted the joint motion to stay briefing related to the EPA record, but it also denied as moot the Corps Scheduling Motion and the Motion for Expedited Consideration (the “Order”). Order, ECF No. 122.

5. As noted in the Parties’ joint motion to stay briefing related to the EPA record, the joint motion to stay was *not* aimed at the briefing schedule for a potential motion to supplement the Corps’ record, and the Parties sought through the separate Corps Scheduling Motion a proposed schedule for briefing the motion to supplement the Corps’ record. Motion to Stay, ECF No. 121 at 3, n.2.

6. In light of today’s order denying the Corps Scheduling Motion as moot, ECF No. 122, Plaintiffs’ motion to supplement the Corps’ record in this case is now due on November 8, 2024. As stated in the Corps Scheduling Motion, the Parties need more time to brief the motion to supplement the Corps’ administrative record. ECF No. 119 at 3. Moreover, permitting the Parties to brief the Corps administrative record issues while the stay of EPA briefing is in place also pushes forward that aspect of the case.

7. Accordingly, Plaintiffs respectfully ask the Court to reconsider the portion of today’s Order denying as moot the Corps Motion and the Motion for Expedited Consideration. *See Fed. R. Civ. P. 54(b).*

8. Plaintiffs further respectfully request that the Court grant the Corps Scheduling Motion and the Motion for Expedited Consideration.

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9. Defendants do not oppose this motion or the requested relief.

Dated November 8, 2024

/s/ Keith Bradley

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CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2024, I filed a true and correct copy of the foregoing document with the Clerk of the Court for the United States District Court of Alaska by using the CM/ECF system. Participants in this Case No. 3:24-cv-00059-SLG who are registered CM/ECF users will be served by the CM/ECF system.

/s/ Keith Bradley
Keith Bradley, *pro hac vice*

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